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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/486,183	02/23/2000	Ian L Gray	540-188	3135

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EXAMINER

AFTERGUT, JEFF H

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 12/18/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/486,183

Applicant(s)

GRAY, IAN L

Examiner

Jeff H. Aftergut

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5-11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Clarification and Reconsideration

1. Applicant is advised that on FORM PCT/DO/EO/903 applicant was informed at item 4 that a copy of the Annexes to the International Preliminary Examination Report (IPER) was received and that the Annexes were entered (see form 903 dated September 11, 2001). In this regard, the Annexes which were attached to the IPER included the 4 sheets of amendments (sheets 1, 1a of the specification and sheets 5 and 6 of the claims), see section 2 of the International Preliminary Examination Report with the discussion of the Annexes. Accordingly, not only should claims 1-11 have been examined in this application, but applicant was informed that claims 1-11 were the claims which were going to be examined.

Applicant has requested "Clarification and reconsideration" regarding the first Office action and the examination of claims 1-11 in that action. The originally filed application had claims 1-13 (as it was filed with the international bureau), however prior to the written opinion in this international application, the applicant submitted an amendment to the claims (changing the claims from 1-13 to 1-11 for examination during the consideration of the international application for the written opinion, the annexes referred to in the IPER). The instruction in the national stage application DID NOT specify that the amendment was made nor that it was applicant's intent to consider the claims as originally filed with the application as the claims for examination (see form PTO-1390, section 7, dated 2-13-2000 and the subsequently filed PTO form-1390, section 7, dated 8-23-2000). The examiner has now spoken to those concerned with the creation of the national stage applications from the international application (to create the national stage 371 application from the PCT application), and the consensus of opinion is

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that because applicant did not instruct the Office as to which set of claims were to be considered, the active claims for examination are the AMENDED CLAIMS submitted for examination by applicant to the international bureau (note again applicant was informed that the Annexes to the application were entered by the Office, see form 903). The applicant is therefore advised that claims 1-11 are the pending claims in this application.

Applicant's request for a refund (of the three month extension of time) and the request for a new first Office action is denied (it would appear that such would be appropriate in a formal petition rather than in a request).

Claim Objections

2. Claims 5-11 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend upon another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 5-11 not been further treated on the merits.

Claim Rejections - 35 USC § 102/103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Vane for the same reasons as expressed in paper no. 6, paragraph 4.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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6. Claims 1, 2, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vane in view of any one of Kalnin, Durand et al or Gorhala et al for the same reasons as expressed in paper no. 6, paragraph 6.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as set forth above in paragraph 6 further taken with any one of Yokota et al or Street for the same reasons as expressed in paper no. 6, paragraph 7.

Response to Arguments

8. Applicant's arguments filed 11-25-02 have been fully considered but they are not persuasive.

The applicant argues that the reference to Vane did not teach the application of additional fibers in the perform prior to the pultrusion operation and that therefore the claims at hand are allowable over the prior art of record. The applicant also argues that the incorrect claims were examined (see the discussion above regarding the fact that claims 1-11 are the pending claims in the application) and that claims 5-11 should have been considered because they are related to the same invention.

Regarding first claims 5-11 (and the claim objection made in the first Office action), applicant is advised that these claims were withdrawn from further consideration not because they related to a different invention but rather because they were presented as multiple dependent claims which depended upon other multiple dependent claims. As set forth in MPEP 608.01(n) such is not proper form for claims in the United States and therefore these claims have been withdrawn from further examination as not being of proper form.

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Regarding whether claims 1-11 or 1-13 should have been examined, the applicant is advised that applicant was informed that the Annexes to the IPER were entered (see FORM 903) in the national stage of the application (the 371). As a result claims 1-11 are now the pending claims (and not claims 1-13 as applicant argues). See the detailed discussion above.

Regarding Vane, the applicant is advised that Vane did in fact teach formed a perform with additional reinforcing fibers disposed in the perform of continuous fibers and that these additional patches of reinforcement were added where the additional reinforcement was desired in the finished assembly. Following perform manufacture (the lay up and stitching of the fiber assembly), the reference to Vane suggested feeding of the perform to a pultrusion molding process. The applicant is referred to Figure 1 for the formation technique used to make the reinforcement (the perform) and Figure 3 for the molding of the reinforcement formed according to the techniques of Figure 1 via pultrusion. Applicant is also referred to column 2, lines 26-36, column 2, lines 50-57, column 3, lines 34-47, column 4, lines 15-19, and column 5, lines 60-65. clearly, the accumulator 15 of Figure 3 was used to accumulate the reinforcement produced at 14 (according to the techniques of Figure 1) prior to pultrusion of the reinforcement in a pultrusion die 28. additionally, the reference to Vane clearly suggested that those skilled in the art would have incorporated patches of supplemental reinforcement 3a and 4a for example in the reinforcing fibers of the reinforcement in order to provide the pultruded body with reinforcement where desired in the finished assembly. Applicant's argument to the contrary is not persuasive.

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The applicant argues that in Vane Figure 1 related to a molding process, however Figure 1 clearly related to a process for forming the reinforcement which was later utilized in the molding operation as discussed above in greater detail. Additionally, applicant argues that the patches 3a, 4a will not work in Vane in a pultrusion operation because they would have a tendency to move about in the die and clog the die in the operation, however note that the reinforcement was described as having been stitched together by knitting there through at 11 (see Figure 1) and thus the reinforcing patches 3a, 4a would not have a tendency to move about in the processing. Applicant is also advised that there is no mention of clogging of the die in Vane as a problem and one is to assume unless otherwise proven that the disclosed processing of the U.S. Patent worked in the manner described.

The applicant argues the dependent claims and stated that none of the additional references added cured the deficiencies of Vane. The applicant did not directly address the teachings of the additional references applied and therefore it is believed that applicant is in agreement with the Office interpretation of these references. Because Vane suggested the addition of additional reinforcement where desired without changing the cross sectional area of the finished assembly (to change the density of the finished end product without the cross section (noting that the die of Vane in pultrusion does not change in cross sectional shape during pultrusion)), these rejections are being maintained for the same reasons previously presented.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

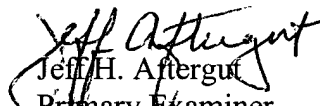
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff H. Aftergut whose telephone number is 703-308-2069. The examiner can normally be reached on Monday-Friday 6:30-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael W. Ball can be reached on 703-308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Jeff H. Aftergut
Primary Examiner
Art Unit 1733

JHA
December 16, 2002